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BRIEFING PAPER ON INVESTMENT GUIDE IN AMERICAN SAMOA

AMERICAN SAMOA Pacific's Best Investment Bet South Pacific's Business Hub Islands of Opportunities

Prepared for

PROSPECTIVE BUSINESS INVESTORS & DEVELOPERS

Talofa and Welcome to American Samoa... "Where America's Day ends". This briefing paper highlights the Territory of American Samoa's progressive economic environment, and the generous incentives available for offshore investment.

American Samoa is truly your "Gateway" to the United States and Pacific markets for profits. Our incentive package offers a wide range of specialized schemes aimed at maximizing profits and rates of return on investments while simultaneously catering to accommodate your individual needs. Our territory boasts a modern infrastructure, which places us at the forefront of the dynamic economic growth sweeping through the Pacific Basin. Some of these features include a worldwide communications satellite facility, full range of telecommunications services, an expansion industrial development park, and international airport and a deep-water harbor. American Samoa, therefore, is eager to welcome partners who are committed to healthy business bottom lines and maximization of rates of return on investments. We have worked hard to develop a reliable, efficient and cost effective infrastructure system that will provide a solid foundation for any business venture.

The American Samoa Government remains strongly committed to strengthening our local economy. The trend for economic development will continue to focus on expanding current private business activities, increasing outside investment with local participation, and diversifying the economy. We have no doubt that you will appreciate our year-round tropical climate and the warm hospitality that has won us international recognition. Our social and business environment is one that has become the envy of many.

American Samoa Profile

History

American Samoa is the only US Territory south of the equator. Its strategic location in the center of the South Pacific area known as Polynesia, accentuates/highlight its economic value to investors. It has one of the Pacific's finest harbors, a good airport and a beautiful tropical environment. One of its important assets is its people. Samoans have live on these islands for over 2500 years and have developed a rich, traditional culture that is still strong and vibrant.

In 1889, the US began the acquisition process of American Samoa through a series of treaties and deeds of cession. In 1900, the US Navy administered the territory and appointed the governors. In 1951, administrative responsibility was transferred by an Executive Order to the US Department of the Interior. The US Department of the Interior approved the Constitution of American Samoa in April of 1960, thereby establishing three branches of government: Executive, Legislative (Fono), and Judicial.

Before 1977, governors and lieutenant governors were appointed by the Interior until November 1977, when the people of American Samoa were granted the right to select their own governor and lieutenant governor. American Samoa also elects its non-voting representative to the US Congress.

Social & Cultural Structure

The social structure of American Samoa is deeply rooted in the extended family or aiga system. It is a system consisting of a group of people related by blood, marriage or adoption, acknowledging a common allegiance to a chief or Matai, who regulates their activities. The chief assumes the trustee functions over family land and property. Extended families own 90% of total land (communal land).

Geography

The seven American Samoan islands are dispersed over 150 miles of water. The total land area is 77 square miles, consists of a group of seven islands; located in the South Pacific at 14 degrees south of the equator, and 172 degrees meridian west, and is the center of Polynesia. Located 2,300 miles southwest of Hawaii and 1,600 miles northeast of New Zealand, it forms a strategic midpoint on vital shipping and air routes. Tutuila, the largest of the seven islands, has a land area of approximately 56 square miles and it is home to 97 percent of the total population of 65,500. Pago Pago Harbor is located in Tutuila and is known as one of the deepest and best protected in the South Pacific.

Size and Population

The seven islands of American Samoa have a land area of 76 sq. miles. Tutuila contains two thirds of the total area and is home to 97 percent of the 55,510 inhabitants.

Location

American Samoa is 14 degrees south of the equator and 172 degrees meridian west. The following cities and distance from American Samoa:

Suva, Fiji	≈ 888 miles
Papeete, Tahiti	≈ 1,236 miles
Honolulu, Hawaii	≈ 2,276 miles
San Francisco, California	≈ 4,150 miles
Auckland, New Zealand	≈ 1,600 miles

Sydney, Australia	≈ 2,700 miles
Taipei, Taiwan	≈ 4,550 miles
Seoul, Korea	≈ 4,525 miles
Tokyo, Japan	≈ 6,443 miles

From PPG→Hnl.→Tokyo Narita→Taipei, Taiwan→Hong Kong SAR ≈ 8,283 miles estimated flight time is about 18 hours 40 minutes

Unique advantages and incentives of establishing industries in American Samoa

1. American Samoa is a U.S. Territory. We have a stable government and stable relationship with the U.S. We use the US currency and the US inflation level drives our price level (inflation rate). The local consumer price index (CPI) reflects the increase in the price of imported goods, primarily from the US. Currently, the local inflation rate has been running at an annual rate of 2-5 percent. According to Department of Commerce (DOC) the First Quarter 2013 Consumer Price Index, the rate of inflation measured at the end of this quarter was registered at 2.6 percent. However, if compared to a year ago, inflation was recorded at 5.4 percent. Inflation went up in the first quarter of 2011 to 7.2 percent and then again to 9.1 percent in the second quarter. It dropped slightly to 8 percent in the last two quarters of the same year. Inflation rates in all four quarters of 2012 dropped.

2. American Samoa presents significant opportunities for export-oriented manufacturing. We have **preferred access to the U.S. through Headnote 3. (a).** Most items with at least 30 percent of their value created here enter U.S. duty free. The Headnote 3. (a) of the U.S. Customs Code provides for duty and quota free access to the U.S. market for products manufactured, processed or assembled in American Samoa that has no more than 70 percent (**50% if article is CBI ineligible such as textile and apparel articles; certain footwear, handbags, luggage flat goods, work gloves and leather wearing apparel; tuna; and, certain watches or watch parts.**) of their total appraised value in foreign materials. Eligible products must be manufactured or produced either wholly from local materials or from imported materials, which are substantially transformed in American Samoa (Substantial transformation occurs when a new and different product is produced, having a distinctive name, character, or use). The cost of the transportation of the materials from source to American Samoa is included in the computation of foreign value, while the cost of transportation of product to the U.S. is excluded from its value for purpose of the calculation. (see page 4 for proportion of foreign materials requirements for a product to be entered duty free into the US mainland).

Change in American Samoa's Economy

Since the closure of the COS Samoa Packing on September 30, 2009 there has been a major structural and compositional change in American Samoa's economy. American Samoa's economy is currently dependent upon the private sector (excluding the single industry i.e. tuna canneries for over 54 years), American Samoa Government and a long-term infusion of federal funds. In 2011, the total employment was 17,738 and comprised of the private sector and the local government employed 91.4 percent of the work force or 16,213 while the tuna cannery employed 8.6 percent of the work force or 1,525. We have developed a definitive industrial and institutional infrastructure as required by large-scale operations. Furthermore, American Samoa benefits from the Headnote 3 (a) as noted previously. This provision gives exports such as canned tuna and other proposed business ventures a competitive pricing advantage in the U.S. mainland market. Also American Samoa is qualified for favorable duty treatment under the Generalized System of Preference.

3. We are centrally located in the South Pacific with access to markets and resources in New Zealand, Australia, Western Samoa, Tonga and Fiji. We have close contacts with Taiwan and Korea merchants, longliner fishing vessels, motherships, reefer transports and fishermen.

4. We have a well-developed infrastructure: harbor facilities, airport, roads, communications, water, sewer, power, education and hospital.

Pago Pago Harbor is one of the finest all weather, deep draft harbors in the Pacific. It has a total water surface area of 2 square miles and depths range from 40-160 feet throughout the inner harbor. The main dock is 1,000 feet long, handling ships of up to a 32-foot draft. Pago Pago harbor provides the full complement of equipment and facilities, and has a ship-repair facility with a 3,000-ton marine railway. The port provides full service port facilities, containerized cargo holding, warehousing, transshipment operations and tugboat services.

5. **Lower Minimum Wages.** American Samoa is currently covered by the US Fair Labor Standards Act. However with the passage of the US Federal Minimum Wage bill by the US Congress which increases minimum wage by \$0.50 cents after enactment and every year thereafter until wages in American Samoa reaches the US Federal minimum wage of \$7.25. This bill also abolished the biennial minimum wage hearing in the Territory. The current minimum wages range between \$4.18 and \$5.59 per hour was effective in May 25, 2009 and the next \$0.50 cents increase of the minimum wage is due on September 30, 2015. The following recommended minimum wages were published in the American Samoa minimum wage poster by the US Department of Labor Wage and Hour Division

The following table highlights the effect of the \$0.50 cent minimum wage increased based on the approved US Federal Minimum Wage bill by US Congress and under the General Headnote 3 (a) is the proportion of foreign materials requirements for a product to be entered duty free into the US mainland:

Industry	US Federal Minimum Wage effective 7/24/07	US Federal Minimum Wage effective 5/25/08	US Federal Minimum Wage effective 5/25/09	Headnote(3a) Foreign materials requirements
1. Government Employees	\$3.41	\$3.91	\$4.41	n/a
2. Fish Canning and Processing	\$3.76	\$4.26	\$4.76	50%
3. Petroleum Marketing	\$4.35	\$4.85	\$5.35	n/a
4. Shipping and Transportation:				n/a
a. Classification A-Stevedoring, lighterage, and maritime shipping agency activities	\$4.59	\$5.09	\$5.59	
b. Classification B-Unloading of raw and/or frozen fish from vessels	\$4.42	\$4.92	\$4.92	
c. Classification C-All other activities in the shipping and transportation industry	\$4.38	\$4.88	\$5.42	
5. Construction	\$4.10	\$4.60	\$5.10	n/a
6. Retailing, Wholesaling, and Warehousing	\$3.60	\$4.10	\$4.60	n/a
7. Bottling, Brewing, and Dairy Products	\$3.69	\$4.19	\$4.69	70%
8. Printing	\$4.00	\$4.50	\$5.00	n/a
9. Publishing	\$4.13	\$4.63	\$5.13	n/a

10. Finance and Insurance	\$4.49	\$4.99	\$5.49	n/a
11. Ship Maintenance	\$4.01	\$4.51	\$5.01	n/a
12. Hotel	\$3.50	\$4.00	\$4.50	n/a
13. Tour and Travel Services	\$3.98	\$4.48	\$4.98	n/a
14. Private Hospitals and Educational Institutions	\$3.83	\$4.33	\$4.83	n/a
15. Garment Manufacturing	\$3.18	\$3.68	\$4.18	50%
16. Miscellaneous Activities e.g. footwear, handbags, Luggage flat goods, work gloves, leather Wearing apparel, watches or watch parts	\$3.20	\$3.70	\$4.20	50%

The American Samoa Government (ASG) provides a substantial package of employee benefits, including 13 paid holidays, 13 days paid sick leave per year, and 13-26 days of annual vacation depending on length of service, in addition to medical and hospitalization plans. These non-cash benefits are provided for all employees and help assure equitable treatment of workers at the lower end of ASG's wage scale. American Samoa recognizes a 40 hours work week.

Most companies in the Territory offer fringe benefits such as paid holidays, vacation and sick leave. Some employers also provide pension/retirement benefits and medical insurance. All employers are required to provide Worker's Compensation insurance against work connected injuries or death and must comply with the provisions of the U.S. Occupational Safety and Health Act, which regulate working conditions pertaining to the health and safety of employees.

The U.S. National Labor Relations Board has extended its jurisdiction to American Samoa, making it possible for U.S. unions to expand into American Samoa. However, labor unions have always been rejected in American Samoa. The ASG's manpower training program includes a **subsidized pre employment-training program for manufacturing and significant employment producing activities**. Under this program (Work Force Investment Act) the government supplements 50% of workers' wages for up to one year.

6. Tax Climate: American Samoa has the same tax structure as the U.S. with a few minor exceptions: there is a minimum 4% tax rate on personal income and a wage tax of 2%.; The amount of tax imposed on corporations for taxable years are as follows: 1) 15% of so much of the taxable income as does not exceed \$50,000; 2) 25% of so much of the taxable income as exceeds \$50,000 but does not exceed \$75,000; 3) 34% of so such of the taxable income as exceeds \$75,000 but does not exceed \$650,000 and the highest tax bracket is 44% of so much of the taxable income as exceeds \$650,000. There is a 5% excise tax on items imported for commercial resale. **There are no gross receipt, property, or sale taxes. Moreover, tax exemptions can be granted by the Governor of American Samoa on some or all taxes (except for individual income tax) for up to 10 years for the establishment or expansion of qualifying industrial or business enterprises under the Industrial Incentives Act.**

Foreign Sales Corporations established in the Territory may receive an eleven-year exemption on corporate income taxes, dividend distributions, customs duties and other taxes. There are no requirements to maintain an office or agent or to hold shareholders meetings in the Territory.

American Samoa is qualified under **Section 936 of the Internal Revenue Code, which is replaced by Section 30A are tax credits for American Samoa Canneries.** 30 (a) is the sum of (1) 60% of wages and fringe benefits and (2) 15%/40%/65% of depreciation allowances for short-life/medium life/long-life tangible property. Section 30A(d) replaces Section 936(a)(4), however, 30(a) requires our canneries to make their claims based on wage credits.

7. The Senator Daniel Inouye Industrial Park was established to incentivize and to attract investment into the territory. With economic development, being our number one priority, it is necessary that one agency be selected to assume comprehensive management of this facility along with the maximization of derived economic benefits associated with the utilization of said land with regard to employment creation.

Based on the above vision, the Department of Commerce is herein given full management authority over the administration of the Senator Daniel Inouye Industrial Park. The American Samoa Government, through the ASG Department of Commerce in-house Review Panel and the DOC Tafuna Industrial Park Division replaces the Real Property Management Board (RPMB) formerly Industrial Park Commission, runs the 100-acre **Sen. Daniel Inouye Industrial Park.** All executed leases will be stored within and be the custody of the Department of Commerce. A twelve-inch water main serves the area and electrical power is available for all industrial purposes. The Industrial Park is fully drained and connected to a sewage treatment plant. Lots are available for up to 55 years at a rate of \$0.25 to \$0.45 per square foot per year. For more information on leasing of ASG Land, please contact the following:

Keniseli F. Lafaele, Director
Department of Commerce
American Samoa Government
Pago Pago, AS 96799
Telephone 684-633-5155 Fax.: 684-633-4195

8. There is no restriction on the repatriation of funds, earnings, etc., except the following:

30.0150 Amounts Payments:

- a. The amount of authorized capital stock of any corporation organized under this chapter may not be less than \$2,000.
- b. The amount of paid-in capital with which any such corporation shall commence business may not be less than \$1,000.
- c. No corporation may be permitted to issue stock except for an equivalent in money or labor done, or property actually received and applied to the purpose for which the corporation was created; and neither labor nor property may be received in payment of stock at a greater value than the actual value at the time the labor was done or property delivered, and all fictitious increases of stock or indebtedness are void.

30.0153 Dividends-Source-Prohibited payments:

- a. A corporation may, by resolution of its board of directors, declare and pay dividends in cash or property only out of earned surplus; earned surplus being defined as the remaining amount of accumulated net income, after adequate deductions for depreciation and obsolescence, and

exclusive of any amounts resulting from unrealized appreciation or an upward revaluation of assets.

b. No dividends may be paid or declared at a time when:

1. the corporation is unable to pay its debts as they mature or when the payment declaration of the dividend would render the corporation unable to pay its debts as they mature;

2. its net assets are less than its stated capital or when the payment or declaration thereof would reduce its net assets below its stated capital.

Every foreign corporation, in order to receive a permit to do business in American Samoa, must have at least \$10,000 of authorized capital stock and \$5,000 of paid-in capital stock. (Title 30, chapter 0308 entitled "Monetary requirements" of the American Samoa Code.)

9. Long-term and working capital loans are available to eligible enterprises through various business financial assistance programs administered by the U.S. Small Business Administration at the Honolulu District Office. These credit programs include both direct loans and loan guarantees.

10. The American Samoa Government is authorized to issue industrial revenue bonds to provide financing for acquisition of fixed assets in approved industrial projects. Interest earned on revenue bonds is not subject to local income taxes.

11. The Bank of Hawaii and ANZ Amerika Samoa Bank provide full international banking services with correspondent banks in the U.S. and the Pacific region. Both banks are member of Federal Deposit Insurance Corporation (FDIC) i.e. US federally chartered organization that insures deposits in banks. However, Bank of Hawaii will be closing its operation in American Samoa on March 2014.

12. The American Samoa Telecommunication Authority (ASCTA) operates one of the best state-of-the-art telecommunication systems in the Pacific, permitting fast and easy contact with the outside world. A new area that holds great potential for growth is our satellite network and computer support system, competitive fiber optic networks, mobile phone services and internet service provider. Securing the benefits from e-Commerce and e-Government will result from our investment and growing institutional base at our Community College, government and business centers. It features a worldwide COMSAT satellite telecommunications facility, competitive fiber optic networks and mobile phone services throughout the islands. Rapid telex, telegraph and facsimile services are also available. The COMSAT satellite system also provides commercial television, video conferencing and radio broadcasts. Fiber Optic communication capability will further enhance infrastructure and support services.

13. Regarding other tax matters (i.e. - exemptions for import duties on equipment, raw materials and exemptions for corporate and business taxes), these will be expanded upon as our discussions progress and will be addressed in your application to the Tax Exemption Board for tax exemption. You could write directly to the following address:

Falema'o M. Pili
Treasurer/Chairman
Tax Exemption Board

Treasury Department
American Samoa Government
Pago Pago, AS 96799
Telephone 684-633-4155 Fax.: 684-633-4100

American Samoa Tax Exemption for Businesses. The Governor of American Samoa have the power after considering recommendations of the Tax Exemption Board may grant exemptions for import duties on equipment, raw materials and exemptions for corporate and business taxes on some or all taxes (except for individual income tax) for up to 10 years for the establishment or expansion of a qualifying industrial or business enterprise.

ASCA 11.1607 General requirements for exemption.

In order to qualify for a certificate of tax exemption, an industrial or business enterprise must:

1. be an enterprise owned by a person who is, or a partnership one of whose members is, a resident of American Samoa; or be a corporation created under the laws of American Samoa or a foreign corporation authorized by the laws of American Samoa to do business in American Samoa;
 2. undertake to employ, at the prevailing wage rate, or at not less than the minimum wage rate provided by law, residents of American Samoa to the extent of at least 75% of the total working force, with the concurrence of the Governor. A temporary waiver may be granted for a period not to exceed 6 months at any one time when residents with the necessary ability to perform the services required at the prevailing wage rates are not available within American Samoa and the industry or business will be greatly handicapped as a result of hiring 75% American Samoans. The board, with the concurrence of the Governor, may revoke or modify the temporary waiver before its expiration if it determines that residents possessing the necessary ability have become available in American Samoa and that such information has been furnished to the person, partnership or corporation. A resident means any person who has resided continuously in American Samoa for not less than 5 years immediately prior to the date of application for employment, or who was born in American Samoa and who has resided therein not less than 1 year immediately prior to the application.
14. In regards to import of foreign labor to the Territory, this matter should be addressed to our Attorney General's Office to assist your companies in this endeavor. The address is as follows:

Afoa M.S. Lutu., Attorney General
Department of Legal Affairs
American Samoa Government
Pago Pago, AS 96799
Telephone 684-633-4163 Fax.: 684-633-1838

Our Immigration policies and requirement must be met, with some exception depending on the economic merit of the project.

Basic steps for establishing business in American Samoa:

1. file for appropriate incorporation permit (local incorporation and foreign incorporation permits);

2. file applications to American Samoa Immigration Board for permits for specialized foreign labor, including country of origin, health and police clearances required for each applicant, and documentation of advertising positions in the local newspapers for a period of two weeks, local applications received, interviews, decisions, etc., and the hiring of a community liaison, who must be Samoan and should be considered at middle management level, for the purpose of labor and public relations between the Samoan workforce and the company's middle management level. The hiring of a Samoan community liaison will certainly encourage the Samoan workforce to meet the expected level of production and working morale, given adequate training period of about one calendar year;
3. file application to the Department of Commerce, Tafuna Industrial Park Section for a minimum of one acre lot at the Tafuna Industrial Park a.k.a. Senator Daniel Inouye Industrial Park;
4. file application for tax exemption with Chairman of the Tax Exemption Board;
5. file with the Department of Commerce (DOC) for all necessary license applications, land use permit, zoning variance application and Department of Public Works for building permits.

Business Licensing:

Any person who wishes to establish a business in American Samoa must obtain a business license. The only businesses exempt from the business license requirements are any business or trade engaged in or conducted by the government or the government of the United States or for the sole or direct benefit of or under the direct supervision of the government; the selling or marketing by an American Samoan agricultural producer of his/her own farm produce in its natural state; and business activity that qualifies as not for profit pursuant to the Internal Revenue Code.

Any person who operates businesses in two or more locations in American Samoa must obtain a license for each location. Similarly, any person who operates any business which is engaged in two or more types of business activities must obtain a separate license for each activity.

The applicant should proceed to DOC offices located in the A.P. Lutali Executive Office Building, Village of Utulei and obtain a business license application. DOC staff will conduct an initial interview to determine whether the applicant will need to apply for a land use permit or zoning variance in relation to the business license application. DOC staff will provide the applicant with all the necessary permit application forms.

Procedures for processing business license applications (One-Day Business License Process):

A new one-day business license process is currently administered by the Department of Commerce (hereinafter sometimes "DoC").

It is the intention of this new process to create an environment that fosters a one day turn-around in the issuance of most business licenses, while at the same time providing ample notice to relevant agencies of new business activities that are subject to their supervision, control, or special licensing authority.

This new process places responsibility for enforcement of specific territorial laws and regulations squarely on the agencies responsible to enforce those laws and regulations, rather than relying on DoC to manage enforcement activities on behalf of these other agencies.

For this purpose, and pursuant to 27.0203 ASCA, the Director of the Department of Commerce is delegated the authority to administer the processing of business license applications under 27.0201 ASCA, et seq., other than the Treasurer's duties as set out under 27.0204 (1) ASCA to ensure payment of the fee by any applicant for a license, and to issue the proper license to the applicant, and 27.0204 (2) ASCA to keep a complete set of records of all licenses issued. The Director, DoC is to ensure compliance with all laws and regulations regarding the issuance of a business license.

The procedures are as follows:

1. Application Forms. A newly revised ASG Form ADMIN-41 (Revised 3/26/2013) shall be in use going forward and made available to the public by DoC.
2. Place of Application. Every applicant for a business license must file the application at the DoC office on the Second Floor of the Executive Office Building in Utulei.
3. Processing of Application.
 - a. DoC will review the application to ensure completeness, and provide the applicant a public information document or brochure setting forth the necessary regulatory approvals for various types of business activities. The public information document or brochure shall be provided in both English and Samoan languages.
 - b. Upon confirming completeness and receipt of the application, with required attachments, if any, DoC will approve the license unless the applicant is majority owned by non-U.S. Nationals or Citizens, or non-permanent residents, and forward the application to Treasury for collection of the license fee and issuance of the license.

For applicants majority owned by non-U.S. Nationals or Citizens, or non-permanent residents, the application will be referred to the Territorial Planning Commission for further review.
 - c. Treasury, upon collecting the fee and issuing the license, will confirm issuance of the license by return of the original application to DoC.
 - d. DoC shall then forward a copy of the approved business license application with attachments to all ASG departments, agencies and offices having either regulatory authority over or fiscal interests in private sector business activity.
 - e. It shall then be the responsibility of the relevant departments, agencies and offices to ensure the business licensee's compliance with laws and regulations or fiscal interests under their jurisdiction.
 - f. No business can commence operations until it has obtained all approvals necessary to the business activity named in the license application.
 - g. Any false statement made on the business license application or any supporting documents or attachments will be grounds for revocation of the license or fine or imprisonment under ASCA 46.4607.
4. Inter-agency cooperation.
 - a. All departments, offices and other agencies previously involved in reviewing business license applications prior to their issuance are directed to coordinate with DoC their receipt of newly approved business licenses via e-mail or other expedited

- means, to ensure timely processing so that the required inspections, certifications, or other official actions necessary to an applicant commencing business operations are acted upon in a prompt and timely manner.
- b. All departments, offices and other agencies and their officials and employees are directed to cooperate with and support DoC in the implementation of these procedures, so that persons making application for business licenses in the territory will receive maximum courtesies and assistance, and that such applications are processed and licenses issued with the minimum delay consistent with effective enforcement of the law.
5. Supersede previous memoranda. This general memorandum (GM #058-2013 dated April 5, 2013) specifically supersedes General Memorandum No. 18-1982. All other general memoranda on business license application procedures are rescinded or modified as appropriate to the extent their provisions are inconsistent with this general memorandum.

Business Owner Checklist

Businesses operating in American Samoa are regulated by several different agencies, boards and commissions depending on the type of the business. More than one license, certificate and/or approval may be required to engage in certain types of businesses. It is the responsibility of the business owner to know and comply with any special business regulations. Below is a checklist of some, but not necessarily all, of the agencies, boards and commissions that regulate business in American Samoa.

- ✓ You may be required to provide Workmen's Compensations depending on the number of employees and type of business activity. Examples of businesses required to provide Workmen's Compensation include, but are not limited to, businesses with 3 or more employees and businesses engaged in occupations hazardous to employees. **Workmen's Compensation Department** is located on the second floor of the Executive Office Building in Utulei (EOB). 633-4485
- ✓ If you intend to erect a new structure or planning to extend or remodel an existing structure, you may be required to apply for a Land Use Permit and/or a Zoning Variance. Land Use Permit Applications are reviewed by the **Project Notification and Review System Board**. Zoning Variance applications are reviewed by the **Zoning Board**. Applications for Land Use Permits and Zoning Variances can be found at the Department of Commerce which is located on the second floor of the EOB. 633-5155
- ✓ If your business activity includes the selling of beer or alcoholic beverages, you must apply for a license with the **Alcoholic Beverage Control Board**. Applications can be found at the Department of Commerce which is located on the second floor of the EOB. 633-5155
- ✓ You must obtain a health permit from the **Department of Public Health** if your business is defined as a restaurant or food establishment, barbershop or beauty parlor, or if your business activity involves the sale of food or drink. The Department of Public Health is located in Fagaalu across from LBJ Tropical Medical Center. 633-1468

- ✓ If your business will provide commercial transportation, you must obtain a Certificate of Convenience from the **Commerce Commission**. Applications may be found at the Department of Commerce which is located on the second floor of the EOB. 633-5155
- ✓ Certain professions require licensures and certifications before one can practice in those professions. Professions requiring special licensures and certificates include, but are not limited to the following:
 - Attorneys and Practitioners
 - Public accountants
 - Notary Public
 - Commercial vehicle drivers
 - Professional Land Surveyors
 - Marine Inspectors
 - Insurance Agents
 - Contractors
 - Cosmetician
 - Tradesmen
 - Medical professionals
 - Physical and Occupational Therapists
 - Social workers

Additional information for Applicants who are not U.S. Nationals or U.S. Citizens or permanent residents

- a. New businesses that are majority-owned by non-U.S. Nationals or non-U.S. Citizens or non-permanent residents will be referred to the Territorial Planning Commission for further review in accord with Title 27 ASCA and Title 27 ASAC.
- b. A certified financial statement must be submitted for each non-U.S. National or non-U.S. Citizen or non-permanent resident principal owner of the business.
- c. New industries seeking establishment in the territory must include a formal business proposal.
- d. The Territorial Planning Commission may at times request a sum of money to be placed in escrow to offset unanticipated payroll deficit and/or other liability.
- e. The Territorial Planning Commission may demand additional information if the original data submitted is not satisfactory.
- f. The applicant's proposal should address the following factors:
 - 1) traffic safety
 - 2) adequate parking facilities
 - 3) availability of water and sewage facilities
 - 4) effect on land resources and economic opportunities for resident American Samoans
 - 5) conformity to the general comprehensive plan and the general economic plan.

Depending on the type of ownership that is applied: If a Partnership, attach a notarized copy of your Partnership Agreement. If a corporation, attach a copy of your Articles of Incorporation, along with evidence of issuance of shares of stock unless a publically held corporation. Such evidence could include Stock Certificates verifying ownership, Minutes of the Organizational Meeting, or a certified copy of the Shareholder Registry.

Depending on the type of business activity, applicant may be required to include copies of endorsements issued by appropriate special licensing authorities, boards of commissions. These business activities include but are not limited to medical doctors, lawyers, engineers, contractors, architects, surveyors, tradesmen, beauticians and accountants.

If you intend to erect a new structure or planning to extend or remodel the existing commercial structure, you may be required to appear before the Project Notification Review System (PNRS) and/or Zoning Board to process an LUPA and/or application for Zoning Variance. Staff will advise the applicant if it is necessary.

Once you have satisfied all requirements return your business license application to the EDD staff who will review your application for completeness. Then the completed application will be forwarded to the EDD Manager for final review prior submission to the Director of DOC for approval. EDD staff will notify you of the decision. If approved, the Department of Treasury, Revenue Branch, will issue the business license certificate upon payment of the appropriate fees.

Business Licenses are renewed on a calendar year basis regardless of when issued and expire on December 31 of the year in which they are issued or renewed. Most business license fees are \$25.00 per year.

How to Incorporate and Do Business in American Samoa

Local and foreign corporations and partnerships may be authorized to do business in American Samoa. Present regulations allow only US nationals, citizens and “permanent resident” as designated by ASCA 41.0502(sic), to establish sole proprietorships.

Incorporating Locally

Three or more persons of lawful age, a majority of whom must be US nationals or citizens and at least one a resident of American Samoa, may form a corporation for any lawful business.

Articles of Incorporation must be signed and acknowledged by the incorporators and forwarded to the ASG Treasurer via the Attorney General, American Samoa Government. The ASG

Treasurer then forwards the Articles to the Governor for approval, and they are recorded by the Territorial Registrar. After payment of incorporation fees, the ASG Treasurer issues a Certificate of Incorporation.

The Articles must contain:

1. The name of the corporation and the principal place of business in American Samoa;
2. The objects for which it is formed, such objects to be stated with specificity;
3. The amount of authorized capital stock, the classes of stock authorized, and the par value and conditions of each class and the time when and conditions under which it is to pay;
4. The time for commencement of existence of the corporation, not earlier than issuance of the certificate;
5. The names and addresses of the incorporators and the officers or persons including at least three directors, to conduct its affairs, and the time when and manner in which such persons will be selected;
6. A statement that private property of the stockholders is to be exempted from corporate debts; and
7. The manner in which the articles may be amended.

Foreign Corporation Permit to Transact Business:

All corporations organized under laws other than the laws of American Samoa are by definition foreign corporations, which must obtain a separate permit to transact business.

The application is filed with the Governor's Office via the Attorney General, and must include:

1. A certified copy of the article of incorporation;
2. A certified copy of a resolution of the board of Directors authorizing the filing of the articles and service of process generally on any officers or agents in American Samoa engaging in its business here; the name and address of one resident agent for service of process must be indicated; and
3. A statement under oath by the president, vice-president or other head officer and the secretary containing the information required for the articles of incorporation, total authorized capital, total paid-in capital, total value of all money and other assets planned for use in the territory during the next year.

Please contact the following for further assistance and instructions for transacting as a foreign corporation:

Afoa M.S. Lutu Attorney General

Department of Legal Affairs

American Samoa Government

Pago Pago, AS 96799

Telephone 684-633-4163 Fax.: 684-633-1838 email: atty.general@americansamoa.gov

Local Corporation vs. Foreign Corporation

For clarification, please find a summary of differences between local and foreign corporations as it relates to our local statutes.

Local corporations are those corporations created under American Samoa corporation laws contained in Title 30 of the American Samoa Code Annotated. Examples of local corporation laws include provisions that at least 3 or more persons of full age may form a corporation so long as two-thirds of whom are United States nationals or citizens and at least one must be a resident of American Samoa.

As for foreign corporations, these are corporations created under laws that are other than American Samoa's regardless of whether it's a United States corporation. All corporations created in all US states and other possessions are considered foreign because they were created based on laws of those states and possessions.

Nevertheless, "non-domestic" corporations have the option of registering locally as either local or foreign. To register as a foreign corporation in the territory, a corporation, upon approval by the Attorney General, must register its articles of incorporation with the Registrar's Office and apply for a Permit to Transact Business from the Governor. To register locally, on the other hand, non-domestic corporations have to amend their articles of incorporation in order for those articles to comply with all local corporation laws.

15. Trade & Investment Business Opportunities

The American Samoa Government (ASG), local business community and FONO's representatives are aggressively working on the implementation of the 2013-2017 Comprehensive Economic Development Strategy (CEDS) Plan. The Governor's Administration has set Economic Development as the top priority because of its impact on the social economic status of our people and the quality of their lives. Creating Jobs is the target. The economy cannot grow if people don't have money to spend. It is imperative therefore that new jobs must be created. The administration intend to accomplish this by reaching out to the private sector by

developing and strengthening working partnerships dedicated to expanding their operations and making sure that they are profitable. The new administration is committed to building a business nurturing environment by becoming an effective facilitator with its sole responsibility of helping business grow and become profitable. The Department of Commerce is transformed with full dedication to the business of fostering economic development. The CEDS Plan and Territorial Economic Development Implementation Plan (TEDIP) will contain practical and feasible economic development projects to be implemented by the ASG in the next four years with the following key initiatives:

- Strengthen the economic development process by involving the business community and ensuring that capital investment decisions encourage targeted business development and growth
- Reduce dependence on federal financial assistance
- Encourage growth and diversification of existing businesses and seek new business partners, investors, developers, joint ventures, etc.
- Creating jobs is the target.

The specific targets of opportunities for commercial development and growth include:

E-commerce & electronic communications

- Fiber optic cable connection network completed
- Closed caption training
- Transcription of medical files
- Television and cable program production
- Call Centers

Secondary and supportive cannery activities

- Miscellaneous fish processing and export
- Animal feed plant
- Canned Wahoo production and export
- Can-making, box and labeling plant
- Barge ocean disposal of cannery sewage
- Fishing fleet brokerage services
- Samoa Tuna Processors Cold Storage Facility completed

Tourism/Visitor Industry

- Eco Tourism: Mt. Alava Tramway Re-Construction/Development
- Rainmaker Property (Condominium & Time Share Development Rainmaker Property)
- Manu'a Islands Eco-Tourism & Eco-Friendly Golf Excursions
- Hotel and motel development
- Selected tourism, recreational and duty-free shopping services
- Inter-island air and boat services
- Cultural Center activities
- Bed and Breakfast operation
- Charter Fishing operator
- Marine scooters, scuba diving, sailing tour operations
- Handicraft ventures
- Marina and Marine Railway Development-Pago Pago Bay
- Business Incubator Facility

Regional Trade and Transshipment

- Foreign sales corporations
- Export trading companies
- Warehousing and cold storage facilities
- Container repair services
- Shipping and air freight services
- Freight forwarding

Light Industry (Export & Import substitution activities using Headnote 3(a) advantages)

- Bulk asphalt drumming and distribution
- Sugar processing and refining
- Textile assembly
- Electronic equipment assembly
- Bulk cement bagging
- Corned beef processing
- Tropical fruit juice processing
- Processing of regional exports, e.g., taro, snack chips, coconut oil, cocoa, vanilla beans, handicrafts
- Local slaughterhouse and meat processing
- Brewery plant
- Shoe manufacturing/repair shop
- Fish hook factory
- Watch assembling plant

Privatization of Local Government Operations

- ASG Motor Pool
- ASG facilities maintenance
- Industrial Park
- Mt. Alava Tramway Reconstruction of Cable car
- Manu'a Island inter-island transport
- Port tugboat services

Local Fisheries

- Fish processing and loining for US and European market
- Cold storage facilities
- Multi-purpose fishing vessels including Philippine-type purse seiners
- Sashimi fish processing
- Dried and smoke fish processing plant
- Fish fillet plant
- Fish sausage plant
- Giant clam operation
- Tilapia operation
- Shrimp operation
- Ell operation

Agriculture

- Diversified vegetable and fruit production
- Storage facilities

- Agriculture produce processing
- Animal feed mill
- Poultry and eggs production

Economic Prospects

The economic prospects of American Samoa currently depend upon maintaining the viability of the tuna canning industry, local business sector and its exports to the mainland US market. The development of a culturally appropriate tourism industry that will protect the interests of the American Samoa people, the economy and the ecology of the islands is a necessary step in the economic development of the territory. Regional trade with other countries of the Pacific region could support the local tourism industry. The trend for economic development will continue to focus on expanding current private business activities, increasing outside investment with local participation, and diversifying the economy.

Please understand that extra efforts by ASG to expedite the processing of the proposed project through related regulatory agencies are subject to all federal regulations as applied to American Samoa and local statutes which pertain to the proposed project. This notice is to avoid any negative perception from the public, hence public support. However, in order to facilitate the expedition of the proposed project, we strongly suggest that the company to retain the services of a local attorney or agent.

We trust the information provided in this briefing paper will provide you with an overview of our territory's business climate, and to assist you in investing in American Samoa's bright economic future. Should you require any further assistance please do not hesitate to contact Alex P. Zodiacal, Assistant to Administrator/Economic Development Division Manager at (684) 633-5155 or email at alex.zodiacal@doc.as. Please visit www.americansamoa.gov and www.doc.as for information about transacting business in the Territory and www.asbar.org for listings of all local statutes and codes.

*Prepared/compiled by Alex Zodiacal, Asst. to Administrator
Economic Development Division, Department of Commerce
American Samoa Government; Rev. 7-24-2013*

*To improve the quality of life for individuals and the community through economic
development and sustainable resource management*